



UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/198.607 11/24/98 SMILEY

MM92/0720

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CANADA

AIR MAIL

J	10-133US
EXAMINER	

HEAVY B ART UNIT	PAPER NUMBER
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2874
DATE MAILED ✓

07/20/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/198,607

Applicant(s)

SMILEY ET AL.

Examiner

Brian M. Healy

Art Unit

2874

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- 1) ☒ Responsive to communication(s) filed on 28 June 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6, 9, 11 and 15-20 is/are rejected.
- 7) ☒ Claim(s) 4, 5, 7, 8, 10 and 12-14 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some * c) ☐ None of the CERTIFIED copies of the priority documents have been:
1. ☐ received.
2. ☐ received in Application No. (Series Code / Serial Number) _____.
3. ☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____

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DETAILED ACTION

1. [Faint text, possibly a reference to a previous action or a specific claim]
948. Correction is required.

Allowable Subject Matter

2. Claims 4,5,7,8,10, and 12-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action: A person shall be entitled to a patent unless:

4. (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

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5. Claims 1-3,6,9,11, and 15-20 are rejected under 35 U.S.C. 102(a) and (e) as being anticipated by Ford et. al., U.S.P. No.5,900,983.

a.Ford et. al.'983 teaches (Fig.3B) an optical attenuator device and a method of attenuating light using same comprising: a pair of optical fiber 20,32 and input/output lenses 24, 30 (Note that this lens can be a GRIN lens) between which propagates a circular beam of light having a line of symmetry which is interrupted by a beam attenuating member made of an isosceles triangle prism 50a defining a beam region that is smaller than the beam of the light with the beam attenuating member having two substantially equal sides defining an angle therebetween of between 0 to 180 deg, with the two sides having a central line of symmetry coincident with a line of symmetry through the centre of the circular light beam with the angle moving the light beam line of symmetry (Note that the use of a controller for moving the attenuating member is clearly implied even though it is not shown) with the light being detected by light detector 50b. The device and method of Ford et. al.'983 also uses a mirrored reflective surface 34 to reflect light signals in the opposite direction. The attenuator and method of using same of Ford et. al.'983 which clearly, fully meets applicant's claimed limitations.

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Response to Arguments

b. Applicant's arguments with respect to claims 1-3,6,9,11,and 15-20 have been considered but are moot in view of the new ground(s) of rejection.

Claims 18 and 19 were previously indicated to be allowable but have been found to be rejectable under the newly applied reference Ford et. al. Any inconvenience to Applicant is regretted by the Examiner. This office action has not been made final.

Any questions concerning this office action should be directed to:

Brian M. Healy

Primary Examiner

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Phone:(703)308-2693

A handwritten signature in black ink, appearing to read "Brian Healy", written in a cursive style.

**Brian Healy
Primary Examiner**